

COMMONWEALTH of VIRGINIA

DEPARTMENT OF ENVIRONMENTAL QUALITY

NORTHERN REGIONAL OFFICE

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David K. Paylor
Director

STATE WATER CONTROL BOARD ENFORCEMENT ACTION - ORDER BY CONSENT ISSUED TO NORTHROP GRUMMAN SYSTEMS CORPORATION

SECTION A: Purpose

This is a Consent Order issued under the authority of Va. Code § 62.1-44.34:20, between the State Water Control Board and Northrop Grumman Systems Corporation, for the purpose of resolving certain violations of the State Water Control Law and the applicable regulations.

SECTION B: Definitions

Unless the context indicates otherwise, the following words and terms have the meaning assigned to them below:

1. "Board" means the State Water Control Board, a permanent citizens' board of the Commonwealth of Virginia, as described in Va. Code §§ 10.1-1184 and 62.1-44.7.
2. "Containment and cleanup" means abatement, containment, removal, and disposal of oil and, to the extent possible, the restoration of the environment to its existing state prior to an oil discharge.
3. "Department" or "DEQ" means the Department of Environmental Quality, an agency of the Commonwealth of Virginia, as described in Va. Code § 10.1-1183.
4. "Director" means the Director of the Department of Environmental Quality, as described in Va. Code § 10.1-1185.

5. "Location" means the facility, land, road, storm drain(s) or state water(s) where the oil discharge occurred located at 12900 Federal Systems Park Drive, in Fairfax, Virginia.
6. "Northrop Grumman" means Northrop Grumman Systems Corporation, a corporation authorized to do business in Virginia. Northrop Grumman is a "person" within the meaning of Va. Code § 62.1-44.3.
7. "Notice of Violation" or "NOV" means a type of Notice of Alleged Violation under Va. Code § 62.1-44.15.
8. "NRO" means the Northern Regional Office of DEQ, located in Woodbridge, Virginia.
9. "Oil" means oil of any kind and in any form, including, but not limited to, petroleum and petroleum by-products, fuel oil, lubricating oils, sludge, oil refuse, oil mixed with other wastes, crude oils and all other liquid hydrocarbons regardless of specific gravity. *See* Va. Code §62.1-44.34:14.
10. "Order" means this document, also known as a "Consent Order" or "Order by Consent," a type of Special Order under the State Water Control Law.
11. "Site" means the facility, land, road, storm drain(s) and surface water(s) adversely affected by the oil discharge.
12. "State Water Control Law" means Chapter 3.1 (§ 62.1-44.2 *et seq.*) of Title 62.1 of the Va. Code. Article 11 (Va. Code §§ 62.1-44.34:14 through 62.1-44.34:23) of the State Water Control Law addresses Discharge of Oil Into Waters.
13. "State waters" means all water, on the surface and under the ground, wholly or partially within or bordering the Commonwealth or within its jurisdiction, including wetlands. Va. Code § 62.1-44.3.
14. "Va. Code" means the Code of Virginia (1950), as amended.
15. "VAC" means the Virginia Administrative Code.

SECTION C: Findings of Fact and Conclusions of Law

1. The Northrop Grumman facility located in Fairfax, Virginia is an office building where there are six emergency generators and other smaller fuel combustion equipment with underground piping.
2. On March 10, 2010, DEQ-NRO was notified by Northrop Grumman that a petroleum sheen was observed on the gravel within an emergency generator enclosure at the Location. The report indicated that a petroleum odor had been noticed in the basement

next to the generator enclosure on March 8, 2010, and that petroleum had been discovered in the emergency generator area on March 9, 2010. Petroleum is included in the definition of "oil" under Va. Code § 62.1-44.34:14.

3. VA Code § 62.1-44.34:19 requires that any person discharging or causing or permitting a discharge of oil into or upon state waters, lands, or storm drain systems within the Commonwealth to immediately upon learning of the discharge to notify the Board.
4. On March 11, 2010, DEQ staff conducted a site inspection and observed that petroleum had been discharged upon land inside of the emergency generator area. DEQ staff did not observe any petroleum sheen down gradient to the storm water pond, a state water, during this site inspection.
5. On March 15, 2010, DEQ staff conducted an additional site inspection and observed that a discharge from the emergency generator enclosure had occurred resulting in a sheen upon the storm water pond
6. Northrop Grumman informed DEQ that between March 8, 2010, and April 19, 2010, approximately 40 gallons of petroleum and water have been recovered from the emergency generator enclosure:
7. Va. Code § 62.1-44.34:18 prohibits the discharge of oil into or upon state waters, lands, or storm drain systems.
8. On June 9, 2010, the Department issued a Notice of Violation to Northrop Grumman for a discharge of oil to the state waters and land, and failure to report the discharge.
9. On June 22, 2010, Department staff met with representatives of Northrop Grumman to discuss the accident, discharge, emergency response, spill control and clean-up, and future actions. At this time Northrop Grumman informed DEQ it was their belief that a damaged underground pipe was the source of the discharge. Department staff requested additional information regarding the method used to calculate the product recovered during the clean-up. Because of the potential discrepancy in fuel released to the environment, DEQ also requested that Northrop Grumman perform an additional assessment of the site.
10. On July 1, 2010, Northrop Grumman submitted a written response to the NOV. The response included Northrop Grumman's assertion that they acted in accordance with all applicable reporting requirements regarding the release. Northrop Grumman explained that initially, when the release was discovered by Northrop Grumman staff, no evidence of an ongoing release was found, and the amount of free product appeared to be significantly less than 25 gallons. When additional product was found, Northrop Grumman did report the information to DEQ. DEQ has determined that this response is sufficient to resolve the reporting violation noted in the June 9, 2010, NOV.

11. Based on fuel purchase information, engine run time information, and fuel consumption information, received by DEQ on September 2, 2010, and October 26, 2010, Northrop Grumman has calculated that approximately 675 gallons of product was potentially released into the environment.
12. Based on the results of the March 11 and March 15 inspections, the June 22, 2010, meeting and the documentation submitted to DEQ on July 1, 2010, September 2, 2010, and October 26, 2010, the State Water Control Board concludes that Northrop Grumman has violated Va. Code § 62.1-44.34:18, which prohibits the discharge of oil into or upon state waters, lands, or storm drain systems, as described in paragraphs C2 through C10 above.
13. In order for Northrop Grumman to complete its return to compliance, DEQ staff and representatives of Northrop Grumman have agreed to the Schedule of Compliance, which is incorporated as Appendix A of this Order.

SECTION D: Agreement and Order

Accordingly, by virtue of the authority granted it in Va. Code § 62.1-44.34:20, the Board orders Northrop Grumman, and Northrop Grumman agrees to:

1. Perform the actions described in Appendix A of this Order; and
2. Pay a civil charge of \$7,904.25 within 30 days of the effective date of the Order in settlement of the violations cited in this Order.

Payment shall be made by check, certified check, money order or cashier's check payable to the "Treasurer of Virginia," and delivered to:

Receipts Control
Department of Environmental Quality
Post Office Box 1104
Richmond, Virginia 23218

Northrop Grumman shall include its Federal Employer Identification Number (FEIN) with the civil charge payment and shall indicate that the payment is being made in accordance with the requirements of this Order for deposit into the Virginia Petroleum Storage Tank Fund (VPSTF).

SECTION E: Administrative Provisions

1. The Board may modify, rewrite, or amend this Order with the consent of Northrop Grumman for good cause shown by Northrop Grumman, or on its own motion pursuant to the Administrative Process Act, Va. Code § 2.2-4000 *et seq.*, after notice and opportunity to be heard.

2. This Order addresses and resolves only those violations specifically identified in Section C of this Order. This Order shall not preclude the Board or the Director from taking any action authorized by law, including but not limited to: (1) taking any action authorized by law regarding any additional, subsequent, or subsequently discovered violations; (2) seeking subsequent remediation of the facility; or (3) taking subsequent action to enforce the Order.
3. For purposes of this Order and subsequent actions with respect to this Order only, Northrop Grumman admits the jurisdictional allegations, and agrees not to contest, but does not admit, the findings of fact and conclusions of law contained in this Order.
4. Northrop Grumman consents to venue in the Circuit Court of the City of Richmond for any civil action taken to enforce the terms of this Order.
5. Northrop Grumman declares it has received fair and due process under the Administrative Process Act and the State Water Control Law and it waives the right to any hearing or other administrative proceeding authorized or required by law or regulation, and to any judicial review of any issue of fact or law contained herein. Nothing herein shall be construed as a waiver of the right to any administrative proceeding for, or to judicial review of, any action taken by the Board to modify, rewrite, amend, or enforce this Order.
6. Failure by Northrop Grumman to comply with any of the terms of this Order shall constitute a violation of an order of the Board. Nothing herein shall waive the initiation of appropriate enforcement actions or the issuance of additional orders as appropriate by the Board or the Director as a result of such violations. Nothing herein shall affect appropriate enforcement actions by any other federal, state, or local regulatory authority.
7. If any provision of this Order is found to be unenforceable for any reason, the remainder of the Order shall remain in full force and effect.
8. Northrop Grumman shall be responsible for failure to comply with any of the terms and conditions of this Order unless compliance is made impossible by earthquake, flood, other acts of God, war, strike, or such other occurrence. Northrop Grumman shall show that such circumstances were beyond its control and not due to a lack of good faith or diligence on its part. Northrop Grumman shall notify the DEQ Regional Director verbally within 24 hours and in writing within three business days when circumstances are anticipated to occur, are occurring, or have occurred that may delay compliance or cause noncompliance with any requirement of the Order. Such notice shall set forth:
 - a. the reasons for the delay or noncompliance;
 - b. the projected duration of any such delay or noncompliance;

- c. the measures taken and to be taken to prevent or minimize such delay or noncompliance; and
- d. the timetable by which such measures will be implemented and the date full compliance will be achieved.

Failure to so notify the Regional Director verbally within 24 hours and in writing within three business days, of learning of any condition above, which the Northrop Grumman intends to assert will result in the impossibility of compliance, shall constitute a waiver of any claim to inability to comply with a requirement of this Order.

- 9. This Order is binding on the parties hereto, their successors in interest, designees and assigns, jointly and severally.
- 10. This Order shall become effective upon execution by both the Director or his designee and Northrop Grumman. Nevertheless, Northrop Grumman agrees to be bound by any compliance date which precedes the effective date of this Order.
- 11. This Order shall continue in effect until:
 - a. Northrop Grumman petitions the Director or his designee to terminate the Order after it has completed all of the requirements of the Order and the Director or his designee approves the termination of the Order; or
 - b. the Director or Board terminates the Order in his or its sole discretion upon 30 days' written notice to Northrop Grumman.

Termination of this Order, or any obligation imposed in this Order, shall not operate to relieve Northrop Grumman from its obligation to comply with any statute, regulation, permit condition, other order, certificate, certification, standard, or requirement otherwise applicable.

- 12. Any plans, reports, schedules or specifications attached hereto or submitted by Northrop Grumman and approved by the Department pursuant to this Order are incorporated into this Order. Any non-compliance with such approved documents shall be considered a violation of this Order.
- 13. The undersigned representative of Northrop Grumman certifies that he or she is a responsible official authorized to enter into the terms and conditions of this Order and to execute and legally bind Northrop Grumman to this document. Any documents to be submitted pursuant to this Order shall also be submitted by a responsible official of Northrop Grumman.
- 14. This Order constitutes the entire agreement and understanding of the parties concerning settlement of the violations identified in Section C of this Order, and there are no

representations, warranties, covenants, terms or conditions agreed upon between the parties other than those expressed in this Order.

15. By its signature below, Northrop Grumman voluntarily agrees to the issuance of this Order.

And it is so ORDERED this 4th day of August, 2011.



Thomas A. Faha, NRO Regional Director
Department of Environmental Quality

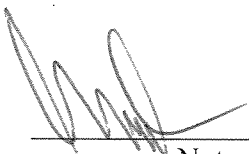
Northrop Grumman Systems Corporation voluntarily agrees to the issuance of this Order.

Date: 3/17/11 By: Stephen Movius, VP & CFO, NGIS
(Person) (Title)
Stephen Movius

Commonwealth of Virginia

City/County of _____

The foregoing document was signed and acknowledged before me this 17th day of March, 2011, by Stephen Movius who is VP & CFO of Northrop Grumman Systems Corporation, on behalf of the corporation.



Notary Public

7218120

Registration No.

My commission expires: 7/31/12

Notary seal:



APPENDIX A SCHEDULE OF COMPLIANCE

Northrop Grumman shall:

1. Submit a post site characterization report as required by the Remediation program in accordance with the timeline set forth in the October 29, 2010 letter from DEQ.